

2. The Executive Secretary is directed to submit for publication in the Administrative Bulletin an "Adopted and Filed" notice in the form attached to and incorporated by reference in this order.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 24th day of May, 2004.

UTILITIES DIVISION [199]

Adopted and Filed

Pursuant to Iowa Code sections 17A.4 and 476.2 and 47 U.S.C. § 214(e), the Utilities Board (Board) gives notice that on May 24, 2004, the Board issued an order in Docket No. RMU-03-13, In re: Eligible Telecommunications Carrier Designation for Wireless Carriers, "Order Adopting Rules," by which the Board adopted new paragraph 39.2(5)"c" regarding the granting of eligible telecommunications carrier (ETC) status to wireless telecommunications carriers based on their certification from the Federal Communications Commission (FCC). This rule is intended to redefine the term "service area" as it pertains to wireless telecommunications carriers and to increase the availability of wireless ETC status.

Notice of Intended Action was published in the IAB Vol. XXVI, No. 10 (9/17/03) p. 500, as ARC 2773B. Written comments were filed on or before November 10, 2002. A public hearing to receive oral comments on the proposed amendments was held on Wednesday, December 10, 2003.

Written comments were filed by the following nine parties: WWC License, LLC, U.S. Cellular Corporation, Midwest Wireless Iowa, Iowa Wireless Services, NPCR, Inc., d/b/a Nextel Partners, Qwest Corporation, Iowa Telecommunications Association, Rural Iowa Independent Telephone Association and the Consumer Advocate Division of the Department of Justice. A summary of the comments filed and the amendments adopted can be found in the Board's order located on the

Board's Web site, www.state.ia.us/iub, or hard copy in the Board's Record Center, 350 Maple Street, Des Moines, IA 50319. The Board determined based upon the comments that the proposed rule 39.5(476) should not be adopted. The Board adopted the other proposed amendments.

These proposed rules are intended to implement Iowa Code § 476.2 and 47 U.S.C. § 214(3), and amends Chapter 39 – Universal Service.

The following amendments are adopted and will become effective July 28, 2004.

Item 1. Amend subrule **39.2(5)** by adding the following **new** paragraph "**c**":

c. In the case of a wireless telecommunications carrier, "service area" means that area where the wireless company has been licensed by the FCC to provide service.

1. If the application of this rule and the service requirement of 199—39.2(1), pose an undue hardship on a wireless telecommunications carrier seeking designation as an eligible telecommunication carrier, a wireless carrier may request a waiver of 199—39.2(1)(476), pursuant to 199—1.3(476).

2. Requests by a wireless telecommunications carrier for a waiver of 199—39.2(1)(476) must state, in addition to the requirements established in 199—1.3(476), the extent of the area in which the carrier is licensed to provide service by the FCC, the extent of the area in which the carrier is seeking designation, and the carrier's ability to expand universal service fund supported services throughout its licensed service area within a reasonable time frame. A request for a waiver under this paragraph must also include a statement that should a wireless carrier receive a request from a potential customer within its service area

but outside its existing network coverage, the wireless carrier will take a number of steps to provide service to that customer which may include modification or replacement of the requesting customer's equipment, deployment or installation of a roof-mounted antenna or other equipment necessary to provide service, cell tower adjustments, network or customer facility adjustments, an offer of resold services from another carrier's facilities to provide service, or the employment or construction of an additional cell site, cell extender or repeater

Item 2. Adopt the following new rule:

~~199—39.5(476) Standards for service quality for wireless carriers attaining designation as an eligible telecommunications carrier.~~

~~39.5(1) — A wireless carrier that has received designation as an eligible telecommunications carrier shall comply with the service quality rules set forth in 199—22.6(476) with respect to all services provided as an eligible telecommunications carrier.~~

~~39.5(2) — A wireless carrier that has received designation as an eligible telecommunications carrier shall file with the board documentation of the wireless carrier's customer service agreements that sets out all the rates, terms, and conditions applicable to its ETC-eligible local calling plans.~~

May 24, 2004

/s/ Diane Munns
Diane Munns
Chairman